



referred to as close outs, manufacturer's overruns, other retailers returned or excess inventory or manufacturer's seconds or imperfect merchandise; provided however, the provisions of this Section 16.5 shall not apply to any of the existing tenants of the Shopping Center (or their successors, subtenants, and assigns) to the extent that the leases with such tenants permit the tenants thereunder to undertake without Landlord's consent an activity that would otherwise be prohibited under this Section 16.5. If Landlord shall be in breach of this covenant and shall fail to cure such breach within thirty (30) days after receipt of written notice from Tenant, Tenant shall have the option to seek such injunctive or other relief as may be available at law or in equity to force the cessation of the offending activity, and Landlord shall reimburse Tenant for all expenses incurred by Tenant (including reasonable attorneys fees and disbursements) in the enforcement of the provisions of this Section 16.5. If Landlord fails to begin to cure the violation within the time set forth herein. In addition to Tenant's right to seek injunctive or other relief, and without waiving Tenant's right to seek injunctive or other relief at a later date should such violation continue, so long as such violation shall continue, the annual fixed rent otherwise due under this Lease shall be reduced by ten percent (10%) of the annual fixed rent otherwise due under this Lease.

4. The property in question is a commercial shopping center located on 3600 Long Beach Road, Oceanside, New York, in the County of Nassau and State of New York (hereinafter referred to as "Kohl's Center"). A copy of the legal description of the Kohl's Center is attached hereto as Exhibit B.
5. I have worked on land use issues involving the Kohl's Center with 3600 Long Beach Road, LLC. ("Landlord"), the owner of the property, in regard to, among other things, securing Restrictive Declarations on the site, parking variances, etc. Through said representation, I am familiar with the property, its zoning status, and the special permits governing the approved use thereon.
6. The Shopping Center is a commercial retail center located at 3600 Long Beach Road, Oceanside, New York situated on the Northeast corner of Daly Boulevard and Long Beach Road consisting of 283,652 square feet of retail space. The major tenants of the Shopping Center are Staples, Michaels, Bed, Bath & Beyond, Amazon Fresh, Kohls', Marshall's and Carters Osh Kosh. It has ample off street parking in accordance with all local laws and requirements.
7. On June 10, 1999, 3600 Long Beach Road, LLC., a New York Limited Liability Company, entered into a lease with Kohl's Department Stores, Inc., a Delaware Corporation for a portion of the property located at 3600 Long Beach Road, Oceanside, New York. The Landlord's lease agreement terminates on February 2, 2025 as reflected in Exhibit A
8. The Kohl's Center has been used, to the best of my knowledge, as a retail shopping center in accordance with the requirements of the Certificate of Occupancy annexed hereto as Exhibit B.
9. I am aware that Bed Bath & Beyond, "Bed Bath & Beyond, Inc" has filed for bankruptcy and that, as part of this bankruptcy action, a potential purchaser (the "Assignee") has been identified at auction for the leasehold interest of 3600 Long Beach Road, LLC. at the Kohl's Center.

10. The possibility of losing the current tenant and having a tenant in its place which fails to use the property in strict accordance with the requirements of the Restrictive Declarations as referenced in paragraph 16.5 of the Lease needs to be resolved before 3600 Long Beach, LLC can consent to the assumption of the lease to the successful bidder. The Landlord is concerned that the proposed new tenant may possibly violate the Restrictive Declaration as to the type of business permitted at said location and hereby objects to the assumption of the Lease.
11. Upon information and belief, the Landlord has not granted any approvals of modifications to the restrictive declaration as reflected in paragraph 16.5 of the Lease in regard to this space.
12. We strongly urge the Debtor to engage in assignment discussions only with users which would comply with the terms of the Lease, in particular, paragraph 16.5, to avoid any risk of forfeiture of said Restrictive Declaration and the other negative consequences that would ensue from a change in use of the space occupied by Bed, Bath & Beyond, Inc.

Dated: Valley Stream, New York  
July 6, 2023

Sworn to before me this 6<sup>th</sup>  
day of July, 2023

/s/Michael M. Cassidy  
Michael M. Cassidy  
Notary Public, State of New York  
No. 02CA5019950  
Qualified in Nassau County  
Commission Expires Jan 21, 2026

/s/Joseph V. Scimone  
Joseph V. Scimone, Authorized Signatory  
3600 Long Beach Road, LLC.